

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Joshua Rucker,) Civil Action No.: 8:08-998-RBH-BHH
)
 Plaintiff,)
)
 vs.) **REPORT AND RECOMMENDATION**
)
Barney Barnes,)
)
 Defendant.) **OF MAGISTRATE JUDGE**

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On June 19, 2008, the defendant filed a motion for summary judgment. By order of this court filed June 20, 2008, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. The envelope containing the *Roseboro* Order was returned as undeliverable/not here. A search of the SCDC website provided a new address for the plaintiff, and the *Roseboro* Order was re-mailed on July 2, 2008, giving the plaintiff through August 5, 2008 to respond. Despite this explanation, the plaintiff elected not to respond to the motion.

As the plaintiff is proceeding *pro se*, the court filed a second order on August 12, 2008, giving the plaintiff through September 4, 2008, to file his response to the motion for summary judgment. The envelope containing this order was returned to the court marked "released." It appears the plaintiff is no longer incarcerated at the Ridgeland Correctional Institution and has been released from prison.

The record reveals that the plaintiff was advised by order dated April 1, 2008, of his responsibility to notify the court *in writing* if his address changed.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* for lack of prosecution.

s/Bruce H. Hendricks
United States Magistrate Judge

August 21, 2008

Greenville, South Carolina